

CITY OF SANTA ROSA  
BOARD OF PUBLIC UTILITIES

TO: BOARD OF PUBLIC UTILITIES  
FROM: CARYN LOZADA, DEVELOPMENT REVIEW COORDINATOR,  
WATER DEPARTMENT  
SUBJECT: APPEAL OF WATER DIRECTOR DECISION TO DENY A  
VARIANCE REQUEST FOR 1800 BRUSH CREK ROAD  
AGENDA ACTION: RESOLUTION

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RECOMMENDATION

It is recommended by the Water Department that the Board, by resolution, recommend that the City Council deny the appeal filed by Cabrera and Associates on behalf of property owners Rod and Lynne Wallace and uphold the Director of Water's decision denying a variance to waive the requirement of a public sewer main extension for new development proposed at 1800 Brush Creek Road.

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EXECUTIVE SUMMARY

On February 12, 2018, the applicant for 1800 Brush Creek Road (the "Property"), Tony Cabrera of Cabrera and Associates, on behalf of the property owners Rod and Lynne Wallace ("Applicant"), submitted a variance application requesting a waiver of the City's design standards requirement to extend a public sewer main to serve new development proposed for the Property and to instead allow for sewer service through extension of a private sewer lateral through a private easement across two residential parcels. On March 21, 2018, the Water Director denied the variance request finding that it would negatively impact and place undue financial burden on neighboring properties along Brush Creek Road and Normandy Drive. On April 4, 2018, Applicant filed an appeal of the Water Director's decision.

BACKGROUND

The Property, located at 1800 Brush Creek Road, is a vacant 1.02-acre parcel generally surrounded by single-family residential uses (See Attachment 1, Property Location Maps). Water and storm sewer (storm drain) are located along the frontage of 1800 Brush Creek Road. Sewer exists to the north and south of 1800 Brush Creek Road but is not located along the frontage. The closest sewer is approximately 110 feet north of the northern property line.

1. In June 2017, BCE Engineering, consultant to the property owners, inquired about developing the parcel and connecting to water and sewer. In addition, BCE Engineering inquired about splitting the lot. Staff advised that water was available, but that a public sewer main extension would be required in Brush Creek Road to serve the project.
2. In September 2017, Archilogix, a different consultant to the property owners, met with staff regarding development of 1800 Brush Creek Road. Staff advised that a public sewer main extension would be required. Staff also advised that, alternatively, the applicant could conduct a study to demonstrate that the surrounding properties that might benefit from the proposed sewer main extension could not be served by the proposed main extension. Upon review and concurrence of a sewer study, a variance may be granted to allow connection of Property via a private sewer lateral.
3. In November 2017, staff met with a different consultant, BCE Engineering, regarding development of the Property and staff provided the same information; that a public sewer main extension would be required unless a study was provided to show that the surrounding properties that might benefit from the sewer main extension could not be served by the proposed extension.
4. In December 2017, staff met with Cabrera and Associates, yet another consultant of the property owners, and the property owners, to review the information that had been provided at previous meetings with City staff and to discuss serving the Property through a private sewer lateral that would cross two residential properties connecting to the public sewer main in Rivera Drive instead of an extension of the public sewer main in Brush Creek Road. Staff again stated, that unless a study was provided to show that the surrounding properties that might benefit from a sewer main extension could not be served by the extension, extension of the public sewer main along Brush Creek Road was required. If the applicant provided a study showing that the surrounding properties that might benefit from a sewer main extension could not be served by the extension, then the Property may be granted a variance to connect to sewer via a private lateral.
5. In February 2018, Tony Cabrera, on behalf of the property owners, submitted a Variance Application requesting that Santa Rosa Water allow connection via a private lateral to Rivera Drive and waive the requirement of a public sewer main extension along Brush Creek Road (see Attachment 2, Variance Application). A sewer study was not submitted as part of the Variance Application. The variance was denied by the Director of Water on March 21, 2018 citing findings that it would negatively impact and place undue financial burden on neighboring

properties along Brush Creek Road and Normandy Drive (see Attachment 3, Letter from Director Horenstein of March 21, 2018).

6. On April 4, 2018, Mr. Cabrera filed an appeal of the Water Director's decision to deny the variance and requesting approval of Applicant's variance request to connect to sewer via a private lateral instead of extending the public sewer main (See Attachment 4, Appeal).

#### PRIOR BOARD OF PUBLIC UTILITIES REVIEW

None.

#### APPLICABLE LAWS AND STANDARDS

Numerous laws and design standards govern the connection of development to public sewers, as follows:

- **Santa Rosa City Code - Santa Rosa City Code Title 15 Sewers, Section 15-04.036 Sewers** requires new development within 500 feet of public sewer to connect to public sewer *and Title 15 Sewers, Section 15-16.080 Privately constructed lines – Approval Required* requires sewer lines constructed by private development to be sized to accommodate the sewage from ultimate population density from the entire tributary to the line. *Title 15-16.020 Construction of sewers and sewer connections – Permit- Compliance* requires construction of all sewer lines to conform to the City's design criteria and City standards (see Attachment 5, City Code Sections).
- **Santa Rosa Sanitary System Design Standards ("City Sewer Standards")** – City Sewer Standards, adopted by the City Council on September 5, 2017, pursuant to Council Resolution No. RES-2017-177, and recommended by BPU Resolution No. 1142, Sections II (A) and (C), require that the sewer system design incorporate any off-site sewer that is required for the connection to an existing public sewer, that it be designed at minimum across one-half the property frontage (unless the project is conditioned to provide new street improvements over the sewer alignment and the sewer provide service to properties upstream, then the full frontage shall be required), and that sewer laterals be located on the property frontage of a parcel that abuts a street, and not in an easement when gravity service can be provided at the property frontage. (See Attachment 6, Excerpts of applicable *City Sanitary Sewer System Design Standards*)
- **California State Plumbing Code (2016) ("Plumbing Code")** - *Plumbing Code Section 307.1*, requires that "no plumbing system, drainage system, building sewer, private sewage disposal system, or parts thereof shall be located in a lot other than the lot that is the site of the building, structure or premises served by such facilities."

In addition, Section 18-12.060 of the City Code and the City Sewer Standards each provide for an appeal to the City Council for denial of a variance by the City Engineer (with respect to the City Code) or the Director of Water (with respect to the City Sewer Standards). Staff first brings this appeal to the Board of Public Utilities for a recommendation as anticipated in the City Sewer Standards because this is a matter that may impact future maintenance and development of wastewater treatment infrastructure within the City and this is an area pertaining to the work of the Board of Public Utilities as evidenced by the delegation of the adoption of the City Sewer Standards by the City Council to the Board of Public Utilities pursuant to Resolution No. 2017-177 on September 5, 2017.

## ANALYSIS

The Applicant lists the following special circumstances as grounds for appeal of the variance denial:

- Location
- Existing Improvements
- Practicable difficulties
- Unnecessary Hardship

### Location:

*The Applicant states that the Property is located above and adjacent to large boulders and rock.*

There is existing public sewer both north and south of the Property along Brush Creek Road. Approximately 110 feet north of 1800 Brush Creek Road, Manhole HH2921MH077 was required to be installed by the project at 1900 Brush Creek Road in 2002 to serve future sewer main extensions for benefit of the properties along Brush Creek Road. A sewer main extension from this manhole to half way across the Property frontage (per City Standards) would be approximately 250 feet in length.

Approximately 200 feet south of the Property, Manhole II2901MH056 was installed in approximately 1979 to serve the parcels to the east within the Hunter Subdivision. If an extension was done from this manhole to halfway across the Property frontage, the extension would be approximately 375 feet in length.

While staff appreciate that this area may have a higher concentration of rocky soil based on previous infrastructure projects in the roadway, the installation of a main along Brush Creek Road has been accomplished by past projects and there is no basis for finding that such work would be prohibitive as suggested by the Applicant. Further, Applicant has failed to provide any evidence that this section of Brush Creek Road would present any more difficulty than other sections where sewer main has already been installed. Furthermore, there is an existing water line and storm water

infrastructure already in place along the frontage of the Property, thus indicating that it is feasible to locate underground services in that location.

**Existing Improvements:**

*The Applicant states the existing City Sewer does not exist in Brush Creek Road along the Property frontage.*

Although no public sewer main exists immediately in front of the Property, public sewer is existing in Brush Creek Road as noted above. On the frontage of the Property is a public storm drain and a public 8 inch water main.

**Practical Difficulties:**

*The Applicant states that construction at the depths necessary in Brush Creek Road and the boulders and rock are inherently dangerous to workers, the public and City maintenance staff.*

Although the area is known to have rocky soils, the City does have existing infrastructure, as noted above, along the Property frontage of 1800 Brush Creek Road that is currently maintained by City Staff. As stated above, previous projects along Brush Creek Road have been required to extend the existing sewer main in anticipation of serving the needs of surrounding properties. Water Department staff routinely maintain existing sewer infrastructure, as well as existing water and storm drain infrastructure in Brush Creek Road.

With respect to traffic control during construction, projects in the public right of way are not uncommon. The project would require an encroachment permit that could include the temporary closure of one lane during certain hours as necessary to accommodate the project. Issues such as these are routinely addressed by the Transportation and Public Works Department and do not pose any unusual or special difficulty.

**Unnecessary Hardship:**

*The Applicant states that the cost to trench at the depths through rock and boulder could not be determined and only estimated. An email was provided from a local contractor assuming the cost could be over \$500,000.*

City staff has prepared an Engineer's Estimate to extend public sewer to serve this site. This estimate would be for an extension of 275 feet of 8 inch main from the northerly existing manhole mentioned above (HH2921MH077). The Engineer's Estimate is \$207,500 (See Attachment 7, Engineer's Estimate). This includes the cost of difficult excavation conditions, which is estimated to add an extra \$55,00 to \$82,500 to the cost of extending the main.

Pursuant to Chapter 21-10 of the City Code, Applicant may seek a reimbursement agreement to collect proportional costs associated with the extension of the sewer main

in Brush Creek Road from any property that benefits from the main extension. This agreement is good for 10 years, and renewable twice, for a total of 30 years.

Lastly, review of the parcel map shows that there are several other undeveloped properties along Brush Creek Road that might benefit from extension of the sewer main in Brush Creek Road. If the Applicant obtains a reimbursement agreement pursuant to Chapter 21-10 of the City Code, those properties that connect to the sewer main in the future would be required to contribute a portion of the costs for the extension. If a variance is granted and no extension is required, the burden of extending the sewer main in the future will fall to surrounding properties, without the ability to seek contribution from the Applicant. The extension of public improvements, such as sidewalks, storm drain, water and sewer lines is routinely required in connection with new development projects as a mechanism for the City to complete gaps in existing public infrastructure for the benefit of the surrounding community. This allows new development to pay its fair share of such public improvements that specifically benefit new development. Allowing the avoidance of these requirements would postpone necessary infrastructure improvements and exacerbate the burden on future development projects. A fair and consistent process will avoid an undue future financial burden on the surrounding properties. The Applicant has failed to demonstrate otherwise, and therefore the requirement should be upheld.

#### FISCAL IMPACT

None.

#### ENVIRONMENTAL IMPACT

This action is exempt from the California Environmental Quality Act (CEQA) because it is not a project which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, pursuant to CEQA Guideline section 15378.

#### BOARD/COMMISSION/COMMITTEE REVIEW AND RECOMMENDATIONS

Not applicable.

#### ATTACHMENTS

- Attachment 1 – Property Location maps
- Attachment 2 – Variance Application No. ENGV18-003
- Attachment 3 – Water Department Letter, dated March 21, 2018, denying the variance
- Attachment 4 – Appeal of Water Director Decision denying the variance, dated April 3, 2018
- Attachment 5 – City Code Sections 15-04.036, 15-16.020 and 15-16.080

- Attachment 6 – Excerpts from City of Santa Rosa Sanitary System Design Standards
- Attachment 7 - Engineer's Estimate
- Resolution

## CONTACT

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